

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

DOUGLAS M. RAY, JR.,)	
)	
PLAINTIFF,)	
)	
vs.)	Civil No. 3:10cv136
)	
ALLERGAN, INC., et al.,)	
)	
DEFENDANTS.)	

DEFENDANTS' RULE 50 MOTION FOR JUDGMENT AS A MATTER OF LAW

Defendants Allergan, Inc. and Allergan U.S.A., Inc. ("Allergan"), by counsel, hereby move the Court pursuant to Fed. R. Civ. P. 50 for judgment as a matter of law. Plaintiff has failed to produce sufficient evidence to support his claim, and a reasonable jury does not have a legally sufficient basis to find in favor of Plaintiff. Specifically, Plaintiff failed to provide legally sufficient evidence that (1) BOTOX® can cause autoimmune encephalitis or that it did, in fact, cause his injuries; (2) its BOTOX® warnings were inadequate; (3) but for such inadequacy, Dr. Hristova would not have prescribed his BOTOX® in July 2007; and (4) a reasonable physician would not have prescribed BOTOX® for Plaintiff had stronger warnings been provided. Plaintiff also failed to provide sufficient evidence to support punitive damages.

In support of this motion, Allergan submits herewith a memorandum of points and authorities, which is incorporated herein by reference.

Respectfully submitted,

ALLERGAN, INC. and ALLERGAN U.S.A., INC.

/s/ Brian D. Fowler

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Certificate of Service

I hereby certify that on the 26th day of April, 2011, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send notification of such filing to the following:

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